

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

JOHN WARREN §
v. § CIVIL ACTION NO. 5:08cv182
TELFORD UNIT MEDICAL §
DEPARTMENT, ET AL.

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff John Warren, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. As Defendants, Warren sued Dr. Reginald Stanley and the Telford Unit of the Texas Department of Criminal Justice, Correctional Institutions Division.

Warren's complaint reads, in its entirety, as follows:

March 27, 2007 I fell out of my top bunk hurting my lower back, was refuse medical, then in June 2008 on the Telford Unit I fell out of my bunk again, I was denied medical treatment again by Dr. Standley [sic], instead of giving me a back brace I was given a belt, when I refuse to wear this after a week due to it hurted [sic] my back more than help it, I was denied the proper back brace.

The Magistrate Judge ordered Dr. Stanley to answer the lawsuit. Dr. Stanley has filed a motion to dismiss stating that Warren has failed to state a claim upon which relief may be granted. Warren did not file a response to the motion to dismiss.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the motion to dismiss be granted and that the lawsuit be dismissed with prejudice. The Magistrate Judge also noted that the Telford Unit Medical Department did not join in the motion to dismiss but recommended that the claims against the Telford Unit Medical Department be dismissed

with prejudice as frivolous. Warren received a copy of this Report on September 3, 2009, but has filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the motion to dismiss filed by Dr. Stanley (docket no. 9) be GRANTED and that the Plaintiff's claims against Dr. Stanley are hereby DISMISSED with prejudice. It is further

ORDERED that the Plaintiff's claims against the Telford Unit Medical Department are hereby DISMISSED with prejudice as frivolous. Finally, it is

ORDERED that any and all motions which may be pending in this cause are hereby DENIED.

SIGNED this 12th day of November, 2009.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE